



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22316-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/855,000

05/14/2001

Kilian schuster

15632 US

1245

50659

7590

08/10/2006

BUTZEL LONG
DOCKETING DEPARTMENT
100 BLOOMFIELD HILLS PARKWAY
SUITE 200
BLOOMFIELD HILLS, MI 48304

EXAMINER

HA, LEYNNA A

ART UNIT

PAPER NUMBER

2135

DATE MAILED: 08/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/855,000	Applicant(s) SCHUSTER ET AL.	
	Examiner LEYNNA T. HA	Art Unit 2135	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 1-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 21-31 are pending.
Claims 1-20 have previously been cancelled.
2. This is a Final rejection necessitated by new grounds of rejection.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. **Claims 21-31 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

Claims 21 and 31 recites non-functional descriptive invention. The claimed states steps of instructions to be initiated within a building. There fails to include any computer readable medium or computer hardware to process or store the method of initiating a procedure within a building.

MPEP recites:

A. Consider the Breadth of 35 U.S.C. 101 Under Controlling Law As the Supreme Court has held, Congress chose the expansive language of 35 U.S.C. 101 so as to include "anything under the sun that is made by man." *Diamond v. Chakrabarty*, 447 U.S. 303, 308-09, 206 USPQ 193, 197 (1980). Accordingly, section 101 of title 35, United States Code, provides: Whoever invents or discovers any new and useful process, machine, manufacture, or composition of

Art Unit: 2135

matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

(b) Nonfunctional Descriptive Material

Descriptive material that cannot exhibit any functional interrelationship with the way in which computing processes are performed does not constitute a statutory process, machine, manufacture or composition of matter and should be rejected under 35 U.S.C. 101. Thus, Office personnel should consider the claimed invention as a whole to determine whether the necessary functional interrelationship is provided. Where certain types of descriptive material, such as music, literature, art, photographs and mere arrangements or compilations of facts or data, are merely stored so as to be read or outputted by a computer without creating any functional interrelationship, either as part of the stored data or as part of the computing processes performed by the computer, then such descriptive material alone does not impart functionality either to the data as so structured, or to the computer. Such "descriptive material" is not a process, machine, manufacture or composition of matter. (Data consists of facts, which become information when they are seen in context and convey meaning to people. Computers process data without any understanding of what that data represents. Computer Dictionary 210 (Microsoft Press, 2d ed. 1994).) The policy that precludes the patenting of nonfunctional descriptive material would be easily frustrated if the same descriptive material could be patented when claimed as an article of manufacture. For example, music is commonly sold to consumers in the format of a compact disc. In such cases, the known compact disc acts as nothing more than a carrier for nonfunctional descriptive material. The purely nonfunctional descriptive material cannot alone provide the practical application for the manufacture. Office personnel should be prudent in applying the foregoing guidance. Nonfunctional descriptive material may be claimed in combination with other functional descriptive multi-media material on

Art Unit: 2135

a computer-readable medium to provide the necessary functional and structural interrelationship to satisfy the requirements of 35 U.S.C. 101. The presence of the claimed nonfunctional descriptive material is not necessarily determinative of nonstatutory subject matter. For example, a computer that recognizes a particular grouping of musical notes read from memory and upon recognizing that particular sequence, causes another defined series of notes to be played, defines a functional interrelationship among that data and the computing processes performed when utilizing that data, and as such is statutory because it implements a statutory process.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 21-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kanevsky, et al. (US 6,421,453) and further in view of An, et al. (US 6,715,073).

Art Unit: 2135

As per claim 21:

Kanevsky discloses a method of initiating a procedure within a building comprising the steps of:

- a. defining at least one initiating event for the procedure; **[col.1, lines 49-52 and col.16, lines 13-40]**
- b. defining at least one requirement for the procedure; **[col.1, lines 52-56; the requirement for the procedure (to access the facility) is a gesture pin or password]**
- c. defining at least one person to be authorized to perform the procedure; **[col.1, lines 57-63]**
- d. detecting the occurrence of the at least one initiating event; **[col.1, lines 65-67 and col.9, lines 1-3; detecting the occurrence is when the person comes to the interacting system or interface area (col.1, lines 16-22)]**
- e. generating a virtual key for the at least one based on the at least one requirement detecting the occurrence of the at least one initiating event; **[col.15, lines 29-37 and col.17, lines 23-37]**
- f. transmitting virtual key to the at least one person; **[col.18, lines 30-32]**
- g. detecting use of the virtual key; **[col.17, lines 46-61]**
- h. checking the validity of the virtual key; and **[col.5, lines 39-43 and col.15, lines 40-45]**
- i. initiating said procedure within the building if the validity check is positive. **[col.4, lines 61-66 and col.9, lines 10-28]**

The virtual key can obviously be Kanevsky's gesture pin or password that is used to verify the person or user to gain access to the building or facilities (col.5, lines 40-43 and col.8, lines 23-40). However, Kanevsky does not specifically disclose the virtual key is a password.

Hence, another prior art is brought forth that a virtual key can obviously be considered as a password. An, et al. teach digital keys are replacing user identification password pairs and digital signatures are replacing physical signatures to guarantee the identity of the sender. An teaches organizations controls access for customers or users by registering user identification and passwords. That the password is a virtual key that authenticates a user (col.1, lines 43-48 and col.2, lines 4-10). Thus, it would have been obvious for a person of ordinary skills in the art at the time of the invention that a virtual key as taught by An can be the gesture pin or password as taught by Kanevsky because the virtual key (or gesture password) authenticates the user to allow access to something (i.e. building or facilities).

As per claim 22: See An on col.1, lines 64-col.2, line 1; discusses a step of assigning an encrypted code to the virtual key.

As per claim 23: See An on col.2, lines 5-12; discusses the steps of adding a signature to the virtual key and identifying a recipient of the transmitted virtual key by the signature.

As per claim 24: See Kanevsky on col.1, lines 49-55; discusses defining different procedures for different initiating events.

As per claim 25: See Kanevsky on col.13, lines 59-62 and col.29-53; discusses defining different requirements for different procedures.

As per claim 26: See Kanevsky on col.9, lines 25-27 and An on col.1, lines 64-col.2, line 12; discusses transmitting different virtual keys to said person for different initiating events.

As per claim 27: See Kanevsky on col.17, lines 20-30; discusses storing said virtual key partially or completely.

As per claim 28: See Kanevsky on col.17, lines 20-30; discusses the steps of identifying the at least one person with biometrics characteristics.

As per claim 29:

method according to Claim 21, further comprising at least one of the steps of:

- initiating a control procedure of an elevator in the building;

- initiating a medical assistance procedure;

- initiating a building cleaning procedure; and initiating a guest reception procedure.

Kanevsky discloses classification involves the differentiation of multiple individuals attempting to interact with the system and a purpose of identify the individuals from their respective commands (col.1, lines 49-58). In addition, Kanevsky discusses that it is desirable to implement an extension of the identification task where the individuals attempting to interface with the computer are ranked so that a higher ranking individual (i.e. supervisor) is allowed access over a lower ranked individual (i.e. data entry person) (col.1, line 65-col.2, line 1). Kanevsky discloses the concept of

Art Unit: 2135

biometrics and its application to security tasks where such task could include providing access control in a natural computing environment as well as access control to a service, facility, or goods (col.9, lines 23-28). Therefore, it is obvious that initiating a variety of procedures such as for an elevator in a building, medical assistance, building cleaning procedure or guest reception is Kanevsky's security tasks that includes classification and identification of particular users or procedures.

As per claim 30: See col.31, lines 63-64; discusses the step of transmitting the virtual key using wireless devices.

As per claim 31: New

Method of initiating a procedure within a building comprising the steps of:

- a. defining at least one initiating event for the procedure; **[col.1, lines 49-52 and col.16, lines 13-40]**
- b. defining at least one of a security requirement and an availability requirement for the procedure; **[col.1, lines 52-56; the security requirement for the procedure (to access the facility) is a gesture pin or password or a question or biometrics for the particular procedure (col.13, lines 17-62 and col.15, lines 30-55)]**
- c. defining at least one person to be authorized to perform the procedure; **[col.1, lines 57-63]**
- d. detecting the occurrence of the at least one initiating event; **[col.1, lines 65-67 and col.9, lines 1-3; detecting the occurrence is when the person comes to the interacting system or interface area (col.1, lines 16-22)]**

Art Unit: 2135

- e. generating a virtual key for the at least one based on the at least one requirement detecting the occurrence of the at least one initiating event; **[col.15, lines 29-37 and col.17, lines 23-37]**
- f. transmitting virtual key to the at least one person; **[col.17, lines 38-45 and col.18, lines 30-32]**
- g. detecting use of the virtual key; **[col.17, lines 46-61]**
- h. checking the validity of the virtual key; and **[col.5, lines 39-43 and col.15, lines 40-45]**
- i. initiating said procedure within the building if the validity check is positive. **[col.4, lines 61-66 and col.9, lines 10-28]**

The virtual key can obviously be Kanevsky's gesture pin or password that is used to verify the person or user to gain access to the building or facilities (col.5, lines 40-43 and col.8, lines 23-40). However, Kanevsky does not specifically disclose the virtual key is a password.

Hence, another prior art is brought forth that a virtual key can obviously be considered as a password. An, et al. teach digital keys are replacing user identification password pairs and digital signatures are replacing physical signatures to guarantee the identity of the sender. An teaches organizations controls access for customers or users by registering user identification and passwords. That the password is a virtual key that authenticates a user(col.1, lines 43-48 and col.2, lines 4-10). Thus, it would have been obvious for a person of ordinary skills in the art at the time of the invention that a virtual key as taught by An can be the gesture pin or password as taught by Kanevsky

because the virtual key (or gesture password) authenticates the user to allow access to something (i.e. building or facilities).

Response to Arguments

5. Applicant's arguments with respect to claims 21-31 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In

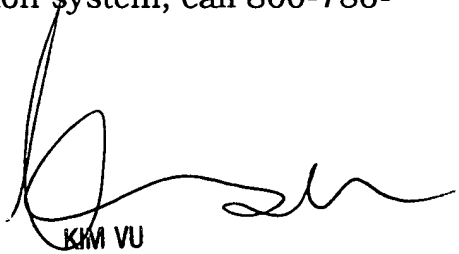
no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEYNNA T. HA whose telephone number is (571) 272-3851. The examiner can normally be reached on Monday - Thursday (7:00 - 5:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on (571) 272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LHa



KIM VU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100